

REMARKS

The Examiner's Office Action of November 5, 2002, has been reviewed.

The rejection based on indefiniteness based upon 35 U.S.C. 112 is noted. It is deemed that this ground of objection and rejection is overcome by the amendments herein.

The Examiner has then rejected Claims 2 and 5 - 13 "under 35 U.S.C. 103(a) as being unpatentable over Allen (USPN 5507794)" and has rejected Claims 1, 3 and 4 "under 35 U.S.C. 103(a) as being unpatentable over Allen (USPN 5507794) in view of Thomas et al. (USPN 5215080)." These rejections are traversed. These essence of the Examiner's rejection is to summarily dismiss various specific claim limitations as, for example, the stitching "approximately over the lower two-thirds of the jacket and with the upper one-third forming an opening." This is not a mere arbitrary limitation, which has been ignored by the Examiner in all of the rejections, but a very specific structural description of applicant's invention with its circular shape having particular applicability to placement over eyes. This is significantly different than the rectangular shaped patches of the prior art exemplified by Allen which is positionable over a breast or the like. In addition, specifically recited is the "indicia coupled to the exterior panel of the jacket." This recitation is not merely an unpatentable design choice as suggested by the Examiner but rather an aid to the user,

particularly young users, to have the indicia bearing side of the jacket facing outwardly so that the non-indicia side is in contact with the eye or other area to receive the coolness from the system. In this manner, the wound being treated by the system of the present invention receives even coolness throughout the entire area to be treated, rather than having the uneven application of coolness occurring due to different thicknesses as is represented by the location of the indicia.

It would appear that the Examiner has merely gleaned miscellaneous features in the prior art and has attempted to combine them without a teaching for their combination. The only teaching is in applicant's disclosure which, by definition, is not prior art. But even if there were a teaching for the combination, the resulting structure would still fail to anticipate applicant's invention for the reasons set forth herein above.

It is deemed that the amendments herein overcome all grounds of objection and rejection. Reconsideration and a Notice of Allowance are requested.